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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/178,126	10/23/98	STIVLAND	T 1001.1294101

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GLENN M SEAGER  
CROMPTON SEAGER & TUFTE  
331 SECOND AVENUE SOUTH  
SUITE 895  
MINNEAPOLIS MN 55401-2246

EXAMINER

LAM, A

ART UNIT	PAPER NUMBER
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3763

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DATE MAILED: 11/08/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Applicati n No.

09/178,126

Applicant(s)

STIVLAND ET AL.

Examiner

Ann Y. Lam

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-- The MAILING DATE of this c mmunication appears on the cover sheet with th correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 August 2001.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 49-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 49-74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 18.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 49-55, and 61-64 are rejected under 35 U.S.C. 102(e) as being anticipated by Sirhan et al., 5,743,875, for the same reasons as set forth in Office action dated May 20, 2001.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 56, 67, 69 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sirhan et al., 5,743,875, in view Fontirroche et al., 5,538,510, for the same reasons as set forth in Office action dated May 20, 2001.

Claims 57, 66, 68, 70 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sirhan et al., 5,743,875, in view Fontirroche et al., 5,538,510, as

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applied to claims 56, 65, 69, 71, 73 above, and further in view of Berg et al., 5,792,116, for the same reasons as set forth in Office action dated May 20, 2001.

Claims 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sirhan et al., 5,743,875, in view of Javier, Jr. et al., 6,093, for the same reasons as set forth in Office action dated May 20, 2001.

Claims 59, 65 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sirhan et al., 5,743,875, in view of Javier, Jr. et al., 6,093,177 as applied to claim 58 above, and further in view of Fontirroche et al., 5,538,510, for the same reasons as set forth in Office action dated May 20, 2001.

Claims 60 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sirhan et al., 5,743,875, in view of Javier, Jr. et al., 6,093,177, further in view of Fontirroche et al., 5,538,510, as applied to claim 59, and further in view of Berg et al., 5,792,116, for the same reasons as set forth in Office action dated May 20, 2001.

### ***Response to Arguments***

Applicant's arguments filed August 24, 2001 have been fully considered but they are not persuasive. Applicant argues that Sirhan et al. does not disclose a bond where the outer surface of one tube is bonded to the outer surface of a second tube, see page 2, lines 18-20. Examiner however reasserts that Sirhan does indeed disclose such a bond. Column 5, lines 51-56, and Figure 6, more clearly discloses that the outer surface of the exterior of a first tube (32) is bonded to the outer surface of a second tube (33). In particular, column 5, lines 51-56 states that tubular member (32) is disposed

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about an inner tubular member (33) and is secured to the exterior of the inner tubular member along a length (34) of the distal shaft. Figure 6 clearly shows, at length (34), that the outer surface of tubular member (32) is bonded to the outer surface of second tube (33). Column 3, lines 17-23 and column 7, lines 59 – column 8, line 16, further describe that the tubular members may be secured together by heat bonding for example.


### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on T-F 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (703)308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3590 for regular communications and (703)306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

A.L.   
November 6, 2001

  
ANH TUAN T. NGUYEN  
PRIMARY EXAMINER  
11/7/01